IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 71 of 2004 (S/S)

Naresh Kumar
S/o late Sri Kirti Ram Vidhyapati
R/o C/o Sri Laxmi Ram,
Jyoti Compound Damuva Dunga,
Haldwani, District Nainital.

……. Petitioner

Versus

1. Union of India
   through Secretary, Department of Post,
   New Delhi.
2. Superintendent of Posts, Almora.
3. Chief Post Mater General, Lucknow.
4. Director General of Posts,
   New Delhi

……. Respondents

Mr. A.K. Joshi, Advocate for the petitioner.
Mr. Vikas Pande, Central Govt. Counsel for the respondents.

Hon. Prafulla C. Pant, J.

Heard learned counsel for the parties.

2) By means of this writ petition, the petitioner has sought quashing of the order dated 23.01.2004, passed by respondent No. 3, whereby respondents have refused to consider case of the petitioner for appointment on compassionate ground for wand of vacancy within the prescribed quota of five per cent.

3) Brief facts of the case are that petitioner's father was Deputy Post Master in General Post Office, Almora, who died in harness on 09.05.1998. It appears that petitioner earlier filed Writ Petition No. 981 (S/S) of 2001, seeking writ of mandamus commanding the respondents to give him appointment on suitable post on compassionate ground. Said writ petition was allowed vide judgment and order dated 05.03.2003 with certain directions. The impugned order dated 23.01.2004 (copy of which is Annexure -1 to the writ petition) appears to have been passed in compliance of the aforesaid order. Now, the petitioner has challenged the order dated 23.01.2004, on the ground that his case has been rejected, wrongly.

4) A counter affidavit has been filed on behalf of the respondents and in its sub Para G of Para 3, following averment has been made:

> *"That being aggrieved with the above decision / order the petitioner has again filed the instant Writ Petition before this Hon'ble Court but in the meantime the impugned order dated 23.01.2004 has been partially modified vide CPMG Dehradun No. Bharti / M-5 / 55 / 99 / 8 dated 03.03.2004. A photocopy of CPMG Dehradun No. Bharti / M-5 / 55 / 99 / 8 dated 03.03.2004 is being filed herewith and marked as ANNEXURE CA -6 to this counter affidavit. After the issue of above modification the position is that the case of the petitioner was put up for reconsideration in the meeting of C.R.C. held on*

15.12.2003 in the office of C.P.M.G. Dehradun keeping in view the 5% vacancies under direct recruitment quota but could not be considered due to non availability of vacancies under that 5% quota. The petitioner's case has not yet been rejected and finally closed. Thus the petition is premature and deserves to be dismissed."

Learned Central Government Counsel appearing for the respondents states that impugned order has already been withdrawn by the authorities concerned, and the petitioner's case is being re-considered.

5) Therefore, the writ petition is disposed of with the direction that order dated 5th March 2003, passed in Writ Petition No. 981 (S/S) of 2001 shall be complied with in the light of the observations made therein, within a period of three months from the date certified copy of this order is produced before such authority. No order as to costs.

(Prafulla C. Pant, J.)

Dt. October 30, 2007.
H.Negi